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SCHWABE, WILLIAMSON & WYATT, P.C.
PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND, OR 97204

| EXAMINER | |
|---|---|
| LEE, JUSTIN YE | |

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/791,036 | HULL ET AL. | |
| | Examiner | Art Unit | |
| | Justin Y. Lee | 2617 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *07 January 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *61-73* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *61-73* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

## DETAILED ACTION

### *Response to Amendment*

1. This Office Action is in response to the amendment filed on 1/7/08.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 73 and 62-63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keinonen et al. (US 6,959,207 B2) in view of Davis et al. (US 6,348,860).

Consider claim 73. Keinonen et al. disclose a mobile electronic communication device (Fig. 2) comprising:

a transceiver (network transceiver 206, Fig. 2);

a touch-screen display (output/display 202, Fig. 2 and col. 4, lines 67-col. 5, line 1); and

a processor unit coupled to the transceiver and touch-screen display (cpu 208, Fig. 2).

Keinonen et al. do not disclose the processor unit is configured to emulate causing of a light unit to light a selected one of a plurality of light sources to indicate receipt of a message from a source by rendering a virtual light unit having a plurality of virtual light sources on the touch-screen display, with a selected one of the virtual light sources manifesting an appearance of being illuminated.

Davis et al. further disclose the processor unit is configured to emulate causing of a light unit (status display 116, Fig. 2A) to light a selected one of a plurality of light sources (LEDs 1-38, Fig. 2A and col. 3, lines 59-64) to indicate receipt of a message from a source (Fig. 2-3 and col. 4, liens 51-65, when emergency is triggered from a source, one of the LED lights up to indicate the source where the emergency occurs) by rendering a virtual light unit having a plurality of virtual light sources on the touch-screen display, with a selected one of the virtual light sources manifesting an appearance of being illuminated (col. 3, lines 59-65, the status display 116 can be done or replaced with a monitor instead of LEDs).

Therefore, it would have been obvious to one ordinary skill in the art at the time the invention was made to utilize the teachings of Davis et al. into the teachings of Keinonen et al. for the purposes of notifying the user who or where the emergency message is from (col. 1, lines 64-col. 2, lines 27).

Consider claim 62. The combination further disclose wherein the selected virtual light source manifesting the appearance of being illuminated is associated with a contact, and the message is received from the associated contact (Davis et al., Fig. 3, a emergency is triggered by a particular person or in a particular location and a light lights up accordingly).

Consider claim 63. The combination further disclose wherein the processor unit is configured to cause another virtual light source to simultaneously manifest another appearance of being illuminated to indicate that a message has been received from a contract associated with the other virtual light source (Davis et al., Fig. 3 and col. 4, lines 52-col. 5, lines 8, when multiple location or people has emergency, emergency triggers are indicated on the display 116 to show the effected area or people).

4. Claim 61 is rejected under 35 U.S.C. 103(a) as being unpatentable over Keinonen et al. (US 6,959,207 B2) in view of Davis et al. (US 6,348,860) as applied to claim 73 and further in view of McLaughlin et al. (US 4,975,694).

Consider claim 61. Keinonen et al. and Davis et al. do not disclose wherein the mobile electronic communication device is configured to receive messages of two or more types, wherein the processor unit is configured to cause the virtual light unit to manifest a further appearance of outputting the light with modulation that depends on the received message's type.

McLaughlin et al. further disclose wherein the mobile electronic communication device is configured to receive messages of two or more types, wherein the processor unit is configured to cause the virtual light unit to manifest a further appearance of outputting the light with modulation that depends on the received message's type (col. 6, lines 9-27, different light to light up to indicate different received messages whether the message is a protect state type of message or pre-delete state type of message).

Therefore, it would have been obvious to one ordinary skill in the art at the time the invention was made to utilize the teachings of McLaughlin et al. into the teachings of Keinonen et al. and Davis et al. for the purposes of informing the user of a received message.

5. Claims 64-71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keinonen et al. (US 6,959,207 B2) in view of Davis et al. (US 6,348,860) as applied to claim 73 and further in view of Williams et al. (US 6,753,842).

Keinonen et al. and Davis et al. do not disclose wherein the processor unit is configured to cause the virtual light unit to manifest a further appearance of outputting of light with modulation that depends on an age of a message received by the mobile electronic communication device.

Williams et al. further disclose wherein the processor unit is configured to cause the virtual light unit to manifest a further appearance of outputting of light with modulation that depends on an age of a message received by the mobile electronic communication device (Williams et al., col. 4, lines 1-21).

Therefore, it would have been obvious to one ordinary skill in the art at the time the invention was made to utilize the teachings of Williams et al. into the teachings of Keinonen et al. and Davis et al. for the purposes of conserving battery power (col. 1, lines 35-39).

Consider claim 65. The combination further disclose wherein the manifested modulated light has a manifested color that depends on the relative age of a received message (Williams et al., column 1 lines 41-49).

Consider clam 66. The combination further disclose wherein the manifested modulated light has a manifested blinking rate that indicates a number of unread messages received from a contact (Williams et al., column 4 lines 1-21).

Consider clam 67. The combination further disclose wherein the message is a most recent message received from a contact (Williams et al., column 3 lines 23-35).

Consider clam 68. The combination further disclose wherein the message is an unread message received from the contact (Williams et al., column 4 lines 1-21).

Consider clam 69. The combination further disclose wherein the relative age is indicated using a plurality of predetermined age categories (Williams et al., column 1 lines 41-49).

Consider clam 70. The combination further disclose wherein each age category of the plurality of age categories is represented by a predetermined color of light manifested by the virtual light unit (Williams et al., column 3 lines 23-35).

Consider clam 71. The combination further disclose wherein each a age category of the plurality of age categories is represented by a predetermined number of light flashes within a. cycle manifested by the virtual light unit (Williams et al., column 4 lines 1-21).

6. Claim 72 is rejected under 35 U.S.C. 103(a) as being unpatentable over Keinonen et al. (US 6,959,207 B2) in view of Davis et al. (US 6,348,860) and McLaughlin et al. (US 4,975,694) as applied to claim 61 and further in view of Williams et al. (US 6,753,842).

Consider claim 72. Keinonen et al. and Davis et al. and McLaughlin et al. do not disclose wherein the message is a SMS message.

Williams et al. further disclose wherein the message is a SMS message (column 3 lines 23-35).

Therefore, it would have been obvious to one ordinary skill in the art at the time the invention was made to utilize the teachings of Williams et al. into the teachings of Keinonen et al. and Davis et al. and McLaughlin et al. for the purposes of conserving battery power (col. 1, lines 35-39).

***Double Patenting***

7. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

8. Claims 73 and 61-72 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-31 of prior U.S. Patent No. 6,720,863. This is a double patenting rejection.

Consider claim 73. All of the limitations of claim 73 are disclosed by prior U.S. Patent No. 6,720,863 (claims 1 and 19).

Consider claims 61-72. All of the limitation of claims 61-72 are disclosed by prior U.S. Patent No. 6,720,863 (claims 6, 9-18, 21, and 27).

***Response to Arguments***

9. Applicant's arguments filed 1/7/08 have been fully considered but they are not persuasive.

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| Regarding the argument on Double Patenting, the applicant states that, virtual | In contrast to applicant's assertions, Claim 19 of U.S. Patent No. 6,720,863 |

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| light unit is different from virtual keypad. | ('863) teaches that a virtual keypad is displayed on a touch-screen display (claim 1 and 19). A key of the virtual keypad illuminates to indicate receipt of a message (claim 1 and 19).<br>Although, it is called a virtual keypad, it has the same function as the currently claimed virtual lights to indicate receipt of a message.<br>A virtual light unit is a broader claim than a virtual keypad, since the virtual keypad performs the functions of the virtual light unit and functions of a keypad. |
| Regarding the argument on Keinonen and Davis, the applicant states that, Keinonen and Davis does not teach or suggest **emulating** causing of a light unit to light one of a plurality of light sources to **indicate receipt of a message** from a source or a virtual light unit having a plurality of **virtual light sources**. | In contrast to applicant's assertions, Davis teaches **emulating** because Davis simulates the status display 116 (Fig. 1 and 2a) on a LCD monitor (col. 3, lines 61) so that the LCD monitor will show the diagram of the status display 116 (Fig. 2a). If an emergency message is received corresponding to any of the zones of the |

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| | status display 116, an area or an indicator 4-6 and 14-25 of 1st level 202 (Fig. 2a), for example, will light up. Since none of the area or indicators are actual light bulb or LED instead a diagram displayed on the LCD monitor, the lighting of the area or indicators are emulated.<br>Davis also teaches **indicate receipt of a message** because an emergency message is received from either a detector 112 (Fig. 1) or a processor 102 (Fig. 1) and the status display 116 (Fig. 1) indicate the location of the location where the emergency message is from by emulating a light on the LCD monitor. The **message** indicating the emergency and location is the message claimed.<br>Davis also teaches **virtual light sources** because as stated above, the status display 116 (Fig. 2a) is displayed as |

| | |
|---|---|
| | a diagram on a LCD monitor and the area or indicators on the status display 116 emulates a light illumination to indicate an emergency message is received at a specific location. Since the area or indicators are not actual light bulbs or LEDs instead a diagram displayed on the LCD monitor the indicators are the claimed virtual light sources. |

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin Y. Lee whose telephone number is (571) 272-5258. The examiner can normally be reached on M - Thu 7:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duc Nguyen can be reached on 571-272-7503. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Justin Lee
AU 2617
1/24/08

DUC M. NGUYEN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600